

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

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In Re:) Case No. 19-30088
) Chapter 11
PG&E CORPORATION AND PACIFIC)
GAS AND ELECTRIC COMPANY,) San Francisco, California
) Tuesday, November 9, 2021
Debtors.) 10:00 AM

REORGANIZED DEBTORS' SEVENTY-
SIXTH OMNIBUS OBJECTION TO
CLAIMS (NO LIABILITY /
PASSTHROUGH CLAIMS) FILED BY
PG&E CORPORATION [10537]

REORGANIZED DEBTORS' SEVENTY-
NINTH OMNIBUS OBJECTION TO
CLAIMS (BOOKS AND RECORDS
CLAIMS) FILED BY PG&E
CORPORATION [10673]

REORGANIZED DEBTORS'
OBJECTION TO PROOF OF CLAIM
NO. 58562 FILED BY FULCRUM
CREDIT PARTNERS LLC AS
TRANSFeree OF TUSCAN RIDGE
ASSOCIATES, LLC [11288] FILED
BY PG&E CORPORATION

MOTION FOR RELIEF FROM PLAN
INJUNCTION, TO COMPEL
ARBITRATION AND/OR FOR
ABSTENTION FILED BY FULCRUM
CREDIT PARTNERS LLC [11066]

REORGANIZED DEBTORS' ONE
HUNDRED SEVENTH OMNIBUS
OBJECTION TO CLAIMS (MCCOLM
CLAIMS) FILED BY PG&E
CORPORATION [11227]

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DENNIS MONTALI
UNITED STATES BANKRUPTCY JUDGE

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APPEARANCES (All present by video or telephone):

For the Reorganized
Debtors:

THOMAS B. RUPP, ESQ.
JANE KIM, ESQ.
Keller Benvenutti Kim LLP
650 California Street
Suite 1900
San Francisco, CA 94108
(415) 636-9015

GAYLE G. GOUGH, ESQ.
Gough & Hancock LLP
50 California Street
Suite 1500
San Francisco, CA 94111
(415) 848-8918

For Fulcrum Credit
Partners LLC:

DIANE C. STANFIELD, ESQ.
Alston & Bird, LLP
333 South Hope Street
16th Floor
Los Angeles, CA 90071
(213) 576-1000

For Tuscan Ridge
Associates, LLC:

JAMIE P. DREHER, ESQ.
Downey Brand LLP
621 Capital Mall
18th Floor
Sacramento, CA 95814
(916) 444-1000

Also Present:

Ora Green
Individual claimant

David P. Addington
Individual claimant

Patricia A. McColm
Individual claimant

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Court Recorder: LORENA PARADA/ANKEY THOMAS
United States Bankruptcy Court
450 Golden Gate Avenue
San Francisco, CA 94102

Transcriber: MICHAEL DRAKE
eScribers, LLC
7227 N. 16th Street
Suite #207
Phoenix, AZ 85020
(973) 406-2250

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PG&E Corporation and Pacific Gas and Electric Company

SAN FRANCISCO, CALIFORNIA, TUESDAY, NOVEMBER 9, 2021, 10:00 AM

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(Call to order of the Court.)

THE CLERK: Calling the matter of PG&E Corporation.
I'll bring Mr. Rupp.

MR. RUPP: Good morning, Your Honor. Thomas Rupp for
the reorganized debtors.

THE COURT: Good morning, Mr. Rupp. By my count, we
have three items on the 10 o'clock calendar. Do you have a
preference on which way we take them?

MR. RUPP: Yes, Your Honor. Thank you. Just for
housekeeping purposes, this morning I would like to take
Addington followed by Green. And I will be representing the
company for those two matters. And then we can follow with the
Fulcrum/Tuscan Ridge matters where my colleague, Jane Kim, and
our cocounsel, Gayle Gough, will be representing the company
for the Fulcrum matters.

THE COURT: Okay. And that's fine. Let's bring in
Mr. Addington.

THE CLERK: If Mr. Addington is an attendee, would you
please raise a hand? Mr. Addington?

THE COURT: Mr. Rupp, have you heard from Mr.
Addington after he filed his response?

MR. RUPP: I have not heard from him since he filed
his response. I did receive the response yesterday, so I

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1 expect him to be -- to be joining us. I'm happy to take the
2 Green matter and then have Mr. Addington's matter trail.

3 THE COURT: Okay. Ms. Parada or -- is Ms. Green in
4 the audience?

5 THE CLERK: Yes. Ms. Green is there. And I'll bring
6 her in now. She was there, Your Honor. I don't --

7 THE COURT: Ms. Green, if you're in the audience,
8 would you raise your hand?

9 THE CLERK: Oh, there they are, Your Honor. They're
10 joining now.

11 THE COURT: All right. Okay. Ms. Green, good
12 morning. Could you turn on your microphone and your camera if
13 you're so inclined?

14 MS. GREEN: I'm pushing the button to start the video.
15 It's not starting.

16 THE COURT: Yeah. We had trouble with the video
17 before. But can you hear me all right?

18 MS. GREEN: Yes, I can hear you.

19 THE COURT: All right. So my staff informs me that
20 either yesterday or this morning you have filed something. I
21 have not had a chance to review that. Mr. Rupp, are you aware
22 of a last-minute filing by Ms. Green?

23 MR. RUPP: Your Honor, I'm checking my email now. I
24 just see at 10:04 I just received a response filed by Willie
25 and Ora Green.

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1 THE COURT: So Ms. Green, since neither Mr. Rupp nor I
2 have had a chance to review it, why don't you summarize for me
3 what your papers say and what you think I should be doing this
4 morning?

5 MS. GREEN: What I did from our last session, I did go
6 and I located Mr. Kisak (ph.). And I explained to him what had
7 happened and everything. And so what he did was he did a
8 letter of verification of who he is. Everything that you asked
9 for on your request he, you know, did it and forwarded it to
10 me. And so what I did was I came down to the court yesterday
11 and put it in the drop box so you would have the signed, you
12 know, document. And also too I did go online as a backup and
13 send it through the court's uploading system also too.

14 So, you know, and then also too there was another one
15 where the person that did the quote for the driveway contacted
16 me with the update and a change. So that was included also.

17 THE COURT: Okay. Well, what do you think I should do
18 with what has been filed? Since you're the only one that's
19 familiar with it, what do you think we should do about it this
20 morning?

21 MS. GREEN: You don't have anything at this point that
22 you can view?

23 THE COURT: Well, I can't even look at the document
24 yet. This isn't instantaneous. We usually can do pretty well
25 at looking at things. But even if I were able to look at it, I

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1 generally don't take the time to read things while people are
2 waiting for me to make decisions. I'm looking at our court
3 docket. And yes, I do see something that was just placed on
4 the docket by the staff, a five-page document. And I'll just
5 take a quick look. But whether I have a chance to review it or
6 not, Mr. Rupp has a chance to review it and comment on it.

7 So let me just look quickly at the document. I did --
8 you didn't do anything wrong. I gave you the opportunity to
9 file something prior to the hearing. And you did. So I'm
10 not -- no problem. We just have to decide what to do about it.

11 But, well, it looks like the first three pages are
12 documents that is essentially your argument because there's no
13 signature and there's no author, but it's -- the way the
14 opening sentence reads, it appears to be your position. And
15 then the -- going to the fourth page, again, is addressed to me
16 and -- from Mr. Kisak.

17 So I think the best thing for me to do is to let Mr.
18 Rupp have a chance to respond and either take the matter on the
19 papers and make a decision or just set it over for further
20 hearing. I can't give you the full opportunity to flesh out
21 your arguments or for Mr. Rupp to do the same without time to
22 do it. So that's what I'm inclined to do. I could put it over
23 just to the next hearing which is a couple weeks from now.

24 Mr. Rupp, what's your pleasure?

25 MR. RUPP: Your Honor, I did just open the document.

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1 It is five pages. And there does appear to be a letter from
2 Mr. Kisak. However, I would like the opportunity to review it
3 and review it with my client and speak with my client about it.
4 So I think where we are now, we -- I would like a continuance
5 of -- to the next hearing. And we can take this up on the 23rd
6 of November. I think that's our next hearing.

7 MS. GREEN: 23rd of November?

8 THE COURT: I think that's what I need to do. I can't
9 give your position a full review. And as I said, Mr. Rupp and
10 his client have an opportunity also. This is -- it's okay to
11 accommodate you to get something at the last minute, but we
12 can't just suddenly indecently decide what's the right thing to
13 do. So --

14 THE CLERK: Excuse me. Excuse me, Your Honor. The
15 document that was filed is actually twenty-six pages. The case
16 administrators are in the process of scanning and docketing as
17 it was just picked up this morning.

18 THE COURT: Okay. Ms. Green --

19 THE CLERK: So the --

20 THE COURT: -- what are the pages that follow the
21 statement by Mr. Kisak?

22 MS. GREEN: I did not send anything in that was
23 twenty-six pages. It's short. It had pictures because the
24 last time we had spoke you were saying that you did not have
25 actually a visual of what the damage really looked like. So

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1 what I did was the pictures that I had that were in color, not
2 sending them online but to actually give you the pictures to
3 show you exactly what the damage looked like inside the garage
4 and in the driveway, exactly what the damage looked like. So
5 that was included -- that's what I dropped off downstairs. And
6 then --

7 THE COURT: Okay.

8 MS. GREEN: And also --

9 THE COURT: Ms. -- okay. Hold on, Ms. Green.

10 Ms. Parada, we do have a calendar on the 23rd at 10,
11 right?

12 THE CLERK: Yes, Your Honor.

13 THE COURT: Okay. Mr. Rupp, I presume if I ask you to
14 file a response by, say, the Friday before, you should be able
15 to -- that shouldn't be a problem for you, right?

16 MR. RUPP: Yes, the 19th. That should work for us.

17 THE COURT: Ms. Green, I'm going to continue this to
18 November 23rd at 10 o'clock. We'll do it the same way on Zoom
19 like this. Mr. Rupp for the company will file a response by
20 the prior Friday, that's 19th. And I will have reviewed,
21 obviously, your papers before then. And I will review his
22 filings before the 23rd. And on the 23rd I will give you
23 probably -- I presume -- I haven't decided what I'll do. I'll
24 give you an opportunity to make a brief argument. And then
25 I'll either make a decision or I'll take it under advisement

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1 and do a decision after that.

2 So that's the plan, okay? Is the 23rd at 10 o'clock
3 convenient for you?

4 MS. GREEN: Yes. May I have a -- I have a question
5 also.

6 THE COURT: Yes.

7 MS. GREEN: During that time that we're in term, does
8 that allow Mr. Rupp and I to try to negotiate anything or just
9 he's reading over what I have and --

10 THE COURT: You have time -- you have time any time to
11 negotiate. I got the impression that the -- and I encouraged
12 you all to see if you could come to a compromise previously and
13 was not successful. But I encourage compromise. And if you
14 can -- without my involvement you pick up the phone or pick up
15 a Zoom camera and talk to Mr. Rupp and his client as he wishes,
16 and I would welcome for the benefit. I think it would be in
17 the best interest of you and your husband and, frankly, PG&E to
18 get this matter decided amicably and swiftly.

19 And that's always the case. My point is I believe you
20 have -- there have been some attempts to come up with a
21 solution so far unsuccessfully, but that doesn't mean there
22 isn't worth trying again. And I know Mr. Rupp and his client
23 are no opposed to seeing if there's a resolution that way. So
24 I hope that's an answer.

25 I will continue this to the 23rd at 10, but I will

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1 continue it beyond that if both sides agree that you need to
2 have further opportunity to try to settle. But if you don't
3 settle, I'll listen to -- and be prepared to review what you
4 filed and what the company will file and to take it up on the
5 23rd at 10 o'clock.

6 MR. RUPP: Your --

7 MS. GREEN: I have a --

8 MR. RUPP: Your Honor, just to -- just real quickly on
9 that. As far as a ruling, if we look at Mr. Kisak's report --
10 and the company may wish to have its own report made by its own
11 expert. So is that something that the Court would consider as
12 far -- I just want to be clear, as far as timing goes, if the
13 Court intends to make a ruling no matter what on the 23rd or if
14 there's more --

15 THE COURT: I'm completely open, Mr. Rupp, as you --
16 should be obvious, we're taking this matter a little more
17 informally for the benefit of Ms. Green not to shortchange
18 them, but I'm not going to shortchange the company either. If
19 you believe it's appropriate to file something in response the
20 first order -- the first way to do it is to ask Ms. Green if
21 she agrees to put it over to a later date. If she -- if she
22 agrees, you don't need me. If she disagrees, you can ask me.
23 And chances are I will do it because that's the way we've been
24 doing this matter. So I don't (audio interference) as an
25 option. Further examination is an option if the company

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1 believes that's necessary. Obviously, we're trying to cut down
2 on the expense here. So hiring more experts is more expensive.
3 You know that.

4 MR. RUPP: Of course.

5 MS. GREEN: Your Honor, I have a question also, too,
6 if I could please ask one. PG&E has had years to come up with
7 a conclusion on how, when, and why the damage happened to our
8 property. It was caused by the negligence of PG&E. And if
9 PG&E would -- did due diligence and proper and timely
10 investigation of our claim instead of ignoring us, we had even
11 furnished all the evidence that they're even using in the
12 reports, the pictures, documentation. And even I went and
13 filed -- you know, Mr. Kisak.

14 PG&E hasn't presented any evidence, you know, to say
15 that this never happened because even their own people know it
16 happened. But I'm requesting that, you know, we go ahead and
17 shorten this to go ahead and -- and, you know, settle this
18 because what's happening is the company that I got the quotes
19 from, those quotes are good for thirty days. And then it's a
20 price change. So I was just notified that one of the companies
21 that I had got a quote from and the thirty days had expired, he
22 called me and said that it's going to be a price difference.
23 You know, so I'm thinking, okay, well, go ahead and send the
24 quote for that because I'm thinking it's only going to be maybe
25 a couple of hundred dollars or something like that. It's way

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1 more than a couple hundred dollars.

2 THE COURT: Well, Ms. Green --

3 MS. GREEN: And (indiscernible) --

4 THE COURT: -- let's -- let's -- Ms. Green, let's go
5 back for a minute, make sure you're mindful of something. I've
6 been very tolerant and lenient from -- of you and your husband
7 not to require things to be more formal, not to have things
8 signed under oath and so on, including up to today. And I
9 don't even know if the document today would pass muster, but
10 I've been permitting you to do it on a more informal basis.

11 What the company hasn't admitted is whether it's
12 liable to you for what happened. And you have the burden of
13 proving that the company did it. They don't have to prove that
14 they didn't do it unless you can prove that they did do it. So
15 the fact of the matter is you have explained to me you were
16 there. You saw the trucks. You heard the noise. You saw the
17 dust. You have documented at least some evidence of damage to
18 your driveway or your garage. But no professional has
19 concluded that there was a cause there. In other words, a
20 professional should say in my opinion this is why it happened.
21 It happened because of the PG&E trucks on the property and so
22 on and so forth.

23 So PG&E is willing to talk to you further about a
24 consensual agreement. And what Mr. Rupp has said is, if
25 necessary, PG&E might want to put on some contrary evidence.

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1 I'm not -- I'm not going to run rough shot over each side. I'm
2 going to let it play out its course. But you can settle this
3 case any time without any further expense.

4 I would add further, nothing is prohibiting you from
5 fixing your garage. This damage occurred some time ago. You
6 could have fixed it two years ago or one year ago or one week
7 ago. And your choice has been not to fix it because you
8 believe PG&E will give you money. But the point is, if the
9 garage has been damaged and there's a contractor who can fix
10 it, you're free to go fix it. And if you fix it and then PG&E
11 is ordered to reimburse you, then you're head of the game or
12 you're no worse off. If you fix it at your expense and the
13 Court rules that PG&E is not liable, then that's -- what
14 happens happens.

15 And so that's where we are. So we can't -- don't mix
16 up your ability and your entitlement to fix the property with
17 whether PG&E is going to reimburse you for it.

18 So I will hear -- look forward to seeing you on
19 November 23rd unless either the -- both sides agree to put it
20 over further or, Ms. Green, if you're unwilling to agree if Mr.
21 Rupp make a case to put it over so the company can do more
22 preparation, that'll be the result also.

23 Meanwhile, thank you for submitting (audio
24 interference) --

25 MS. GREEN: Also, before we -- before we leave, I

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1 wanted to notify you by accident we received forms that belong
2 to Mr. Addleton (sic). They were in the envelope with my court
3 forms.

4 THE COURT: To Mr. Addington?

5 MS. GREEN: I'm sorry?

6 THE COURT: You said it's for Mr. Addington?

7 MS. GREEN: Yes.

8 THE COURT: Okay. Well, Mr. Rupp, you might need to
9 look into that. We'll ask if Mr. Addington is missing some
10 papers. Maybe Ms. Green accidentally got a second set of the
11 papers.

12 MR. RUPP: I suspect it was a second set, Your Honor,
13 but I can definitely verify with Prime Clerk. I know Mr.
14 Addington did receive at least by email those forms that -- the
15 status conference statement since he responded to it. But we
16 can discuss that in front of Mr. Addington.

17 THE COURT: Ms. Green, thank you -- Ms. Green, thank
18 you for pointing that out. Go ahead and just toss them.

19 MS. GREEN: All right.

20 THE COURT: And I appreciate your telling me that.

21 MS. GREEN: All right. Thank you. I look forward to
22 speaking --

23 THE COURT: Thank you.

24 MS. GREEN: -- with you, Mr. Rupp.

25 MR. RUPP: Likewise. Thank you.

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1 THE COURT: Okay. Good luck to both of you.

2 MS. GREEN: Goodbye.

3 THE COURT: Okay. Give me one second. I just have to
4 take care of one -- I'm not leaving. I'm standing up just for
5 a second.

6 Okay. We'll bring in -- I see Mr. Addington.

7 MR. ADDINGTON: Yes, sir.

8 THE COURT: Good morning, Mr. Addington. Can you
9 state your appearance?

10 MR. ADDINGTON: My name is David Addington. And I am
11 a claimant in the PG&E bankruptcy 3093, I believe.

12 THE COURT: That's the number. We know the number.

13 Look, it seems to me that we're just kind of going
14 around in circles about terminology. Mr. Addington, your
15 position is that, before the bankruptcy, you took action that
16 you were entitled to take. And you terminated the easement.
17 And PG&E says no, you didn't. And that's a dispute. That's a
18 critical dispute here.

19 But on the day of the bankruptcy then, according to
20 your view, there was no record easement. So the question is,
21 what should the Bankruptcy Court do? Well, the simple solution
22 is the Bankruptcy Court could say to the company if you want a
23 declaration that there is an easement, you need to file an
24 adversary proceeding. And we need to tee up the determination
25 of who is the owner. Does Mr. Addington own the easement now

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1 or is the easement gone because he's the property owner or does
2 PG&E have the easement that it believes it's had all along.
3 And the Court has the jurisdiction to determine that under
4 these circumstances, particularly if the parties agree.

5 And whether we call it quiet title or something else,
6 it's still a legal determination of the relative rights of the
7 parties. And Mr. Addington, I think your proposal is probably
8 perfectly right that says you'll agree to have the Court
9 determine if PG&E agrees to the outcome if it comes out
10 favorably. And it would seem to me that's exactly what would
11 be the outcome if there was a formal adversary proceeding or,
12 Mr. Addington, you can agree and PG&E can agree that we don't
13 need a formal adversary because I think it can be done by a
14 claim objection.

15 But at the end of the day, it's the same results. In
16 other words, the determination of what the record title should
17 be, should it be consistent with Mr. Addington's point of view
18 or to the company's point of view and consistent with whether
19 Mr. Addington has a claim or not. If he doesn't have -- if he
20 never had a right to terminate the easement, he probably
21 doesn't have a claim. Conversely, if he had the right to
22 terminate the easement, maybe he does have a claim. And what's
23 the amount, that's a separate question.

24 So I'm of the view that the right thing to do here is
25 to get both sides to agree that the Bankruptcy Court can

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1 determine the fundamental question, does PG&E have an easement
2 or it doesn't? If it does, it seems to me Mr. Addington
3 doesn't have a claim anymore. If Mr. Addington prevails and
4 that determination, then the question might be whether he's
5 entitled to a monetary recovery based upon PG&E's use of the
6 property or use of the lines since the easement was terminated.

7 Now, that's a longwinded way of saying you both seem
8 to have agreed that that's where we ought to end up. Mr. Rupp,
9 do you agree that that's the right way to trim the issue? And
10 we don't have to call it an adversary proceeding if both sides
11 agree the Court can make a determination.

12 MR. RUPP: I think that's a fair characterization,
13 Your Honor. That is the -- one of the critical issues to this
14 claim. And we both have every right to contest that. And it's
15 essential to resolving the claim. So whether it be in a formal
16 adversary proceeding or in the scope of a claim objections,
17 it's still the issue the Court will have to rule on after
18 briefing by other parties.

19 THE COURT: Well, before I ask Mr. Addington, if
20 you -- your side prevails, Mr. Rupp, and the Court determines
21 that there never was a -- there always was for all purposes an
22 easement and Mr. Addington had no ability and no legal ability
23 to terminate it, do you also believe he has no claim? I mean,
24 you have no claim, right?

25 MR. RUPP: Correct.

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1 THE COURT: Okay. Mr. Addington, do I frame the issue
2 correctly from your point of view?

3 MR. ADDINGTON: Yes, sir, you do.

4 THE COURT: Okay. The question -- okay. Then the
5 question is how to do it to maintain record. Again, Mr.
6 Addington, I don't know what your experience is in the law, but
7 you seem to be quite conversant with some of the things we're
8 talking about. But I don't want to turn this into a job
9 interview. But we have to -- we have to make a record here.

10 And so the way a trial court must tee up an issue
11 mostly for the benefit of the litigants but also for the
12 benefit of any court on appeal is to figure out if there are
13 any facts in dispute and then, if not, to articulate what the
14 facts are and establish those facts as part of the record. If
15 there are disputed facts, then the Court has to make a
16 determination of how the facts from -- based upon the evidence
17 play out.

18 My own take is there aren't any disputed facts. There
19 was an easement back in the last century. At some point in the
20 more recent times, Mr. Addington acquired the property. And he
21 then took advantage of what he thought was his entitlement to
22 terminate the easement. And PG&E takes a contrary view. It
23 seems to me that when they -- a brief statement of those are
24 the relevant facts or whatever additional facts that either of
25 you would add, we just -- we have to put them into the record.

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1 Mr. Rupp, again, back to you. Are there -- is there
2 some other critical fact that I haven't mentioned?

3 MR. RUPP: I don't believe so, Your Honor. I think
4 that's -- that tees up the issue as well as it's been put into
5 the record by Mr. Addington's claim. There's a recorded
6 termination of easement. And Mr. Addington thinks that it is
7 valid and it terminates the easement. And the company disputes
8 that. I don't -- I don't see any other facts as to that
9 determination.

10 THE COURT: How about you, Mr. Addington? Do you
11 believe there are any facts that would dictate a different
12 outcome?

13 MR. ADDINGTON: No, sir, I don't think so. I think
14 the facts are in agreement.

15 THE COURT: What I'd like to do then -- thank you.
16 I'm glad it's so easy for me to state them. Obviously, it's an
17 easy history. It's a -- it's a difficult, perhaps, problem,
18 but an easy history.

19 To put this all in context, when PG&E files a
20 bankruptcy, Mr. Addington files a proof of claim. PG&E files
21 an objection to the proof of claim. And really, what we're
22 procedurally is that setting. And in my opinion the right
23 thing to do is for me to say to PG&E, PG&E, you are claiming an
24 easement, you're claiming that Mr. Addington had no right to
25 terminate it, make a motion. And in other words, make the --

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1 make the argument, establish the -- file a statement of agreed
2 facts. You file your opening brief as to why you should
3 prevail. Mr. Addington, file a response. And the company file
4 a closing reply. Three briefs. We don't need four.

5 Mr. Addington, in your -- you said you would like the
6 ability to have a surreply. One of the nightmarish things for
7 trial judges to do is to get too many briefs because when the
8 facts are not disputed, what happens if you get too many briefs
9 is everybody says the same thing over and over again.

10 So I would -- I would propose consistent with the time
11 table that was set forth in -- I guess it was set forth in what
12 PG&E filed, PG&E -- what Mr. Rupp called supplemental brief
13 just be an opening brief on this issue. And I would give Mr.
14 Rupp the homework assignment of drafting the brief statement of
15 facts. And then you, Mr. Addington, agree that it's an agreed
16 statement of facts. And then the company respond and Mr.
17 Addington -- excuse me, I'm sorry. I'm sorry. The company
18 file the opening brief, Mr. Addington respond, and the company
19 reply. And we don't need a fourth brief.

20 Mr. Addington, I don't want you to feel like you're
21 disadvantaged because they get to file two briefs. It's just
22 the traditional way, opening, response, reply. I wouldn't
23 oppose letting you have a brief surreply just so you feel that
24 the matter is even, but the point is with simple facts, it is
25 the legal argument that you set forth. I almost could say no

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1 reply brief, one side simultaneous briefs or not. But I'd
2 rather -- I'll stick with the more traditional one.

3 So Mr. Rupp, can I simply direct that you will file --
4 you will draft and Mr. Addington will be given an opportunity
5 to agree to an agreed statement of facts which is essentially
6 what I just summarized?

7 MR. RUPP: Your Honor, I think that's a good idea. I
8 just wonder, given -- without blaming either party, how
9 discussions have gone in the past, if there are disputes over
10 the agreed statement of facts, would it be possible to have
11 some kind of response to the agreed statement? I'm just trying
12 to anticipate if the parties aren't able to agree or if it
13 takes time to --

14 THE COURT: Well, you just a moment ago agreed to my
15 statement.

16 MR. RUPP: I did.

17 THE COURT: I'll have enough faith in the system that
18 what I just summarized will be what you'll draft, and it won't
19 be twenty more pages of history that Mr. Rupp feels -- excuse
20 me, that Mr. Addington feels that he wants to respond to.

21 So Mr. Rupp, try your hand at the first draft at a
22 brief statement of agreed facts and see if Mr. Addington will
23 agree. If Mr. Addington disagrees, I guess I will -- certainly
24 will give him an opportunity to make his own statement of
25 facts.

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1 The one thing I don't want to do is turn what really
2 ought to be teed up as a legal argument into a disputed factual
3 issue that requires a different set. So that we all -- there
4 ought to be a way to just -- to briefly and clearly for the
5 purposes of appeal.

6 I know the facts. I just gave them to you. I look
7 forward to the legal briefs. But I -- again, as a trial judge,
8 I have to make sure that there's a record that's clear that
9 goes to the appellate court if there's a review.

10 So Mr. Rupp, make me an offer of when you could have a
11 draft statement of facts.

12 MR. RUPP: Would this be concurrent with the brief?

13 THE COURT: No. You can do it ahead of time.

14 MR. RUPP: Okay. I think -- check my --

15 THE COURT: What did you say?

16 MR. RUPP: I'm just looking at my calendar, Your
17 Honor.

18 THE COURT: oh, okay. I mean, you can make it with
19 your opening brief if you want. You proposed your opening --
20 what you called your supplement brief. But in my opinion it's
21 the critical brief on this agreed procedure. And it could be
22 the same, December 14th, but you need to have a draft for Mr.
23 Addington ahead of time so he can agree to it or disagree.

24 MR. RUPP: Okay. I can propose I guess a -- sorry,
25 one -- I can provide a draft, I would say, to Mr. Addington

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1 December 1st of a statement of fact.

2 THE COURT: Mr. Addington, you ought to be able to
3 respond to that within a week, right?

4 MR. ADDINGTON: Certainly.

5 THE COURT: Okay. So let's do a -- December 1st Mr.
6 Rupp will give us a statement of facts. Mr. Addington, you'll
7 have a week to either agree or disagree. And if you disagree,
8 you just need to have whatever facts you'd think. And we'll
9 stick with your schedule. Mr. Rupp will then file an -- what
10 I'll call the opening brief on January -- excuse me, December
11 14th. Mr. Addington will reply on January 14th. And PG&E
12 responds on January 26th. And we'll have a hearing on February
13 2nd. Is that -- can you clear that date, Mr. Rupp?

14 MR. RUPP: Those dates work for me.

15 THE COURT: No. But did you clear those with Ms.
16 Parada?

17 MR. RUPP: I did not.

18 THE CLERK: Your Honor, February 2nd is an all-purpose
19 PG&E date.

20 THE COURT: Okay. So that'll be the date of the
21 hearing. So again, agreed facts ideally with no debate,
22 December. PG&E opening brief December 14th. Addington
23 response January 14th. PG&E reply January 26th. And argument
24 on February 2nd.

25 MR. RUPP: Your Honor, just to make clear, I'm not

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1 directed to file the draft of undisputed facts; I'm just
2 sharing it with Mr. Addington on the 1st?

3 THE COURT: Yes. But if he agrees with you, then the
4 two of you file it as a joint statement.

5 MR. RUPP: Okay.

6 THE COURT: Mr. Rupp, you write down facts 1, 2, 3, 4,
7 5, 6, 7. He says I agree. The document is a statement of
8 agreed facts to both sides.

9 MR. RUPP: Correct. But I'm not filing the draft that
10 I'm sending to Mr. Addington?

11 THE COURT: No, no, no.

12 MR. RUPP: Okay.

13 THE COURT: I said -- no. I'm hopeful that the two
14 sides will come to an agreement on it.

15 MR. RUPP: Very good.

16 THE COURT: Okay. Mr. Addington, I didn't -- I went
17 through that time table and I didn't -- I didn't put in there a
18 surreply from you. So I'm just going to put it that way. If
19 for some reason you feel that it's critical that you do so, you
20 can set up a phone conference. And if necessary, we'll
21 continue the hearing so you can do it. I don't think it's
22 necessary, but I'm not going to take away your right to ask,
23 okay? You both okay with where we are?

24 MR. ADDINGTON: Judge, I have but one concern.

25 Between December 15th and January 14th, while thirty days on

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1 the calendar, they are also thirty days that are sort of filled
2 with holiday and -- festivities. Should I not get it ready by
3 January 15th, I assume I don't default; I would just be able to
4 beg for an extension.

5 THE COURT: Well, the right way to beg for an
6 extension is to pick up the phone and call Mr. Rupp and --

7 MR. ADDINGTON: Fair enough.

8 THE COURT: And that would necessarily move the time
9 table for his response and the court hearing. If he says no,
10 I'm going to hold your feet to the fire. You can contact my
11 courtroom deputy, and we will set up a telephone conference.
12 These things tend to get worked out. And --

13 MR. ADDINGTON: Sure.

14 THE COURT: -- people do observe the holidays. But to
15 be honest with you, it doesn't take a month to draft a legal
16 brief here either. But I will -- certainly, that's open for
17 you not to feel imposed upon.

18 MR. ADDINGTON: Thank you very much.

19 THE COURT: Okay. All right. Thank you both.

20 Mr. Rupp, did you have something else you wanted to
21 add?

22 MR. RUPP: No, Your Honor. Thank you. I'll turn over
23 the podium to my colleague. And I will see Your Honor at 11
24 o'clock on --

25 THE COURT: Well, you won't see me, but you'll hear

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1 me.

2 MR. RUPP: I'll speak with Your Honor at 11 o'clock.

3 THE COURT: Thank you, Mr. Addington.

4 MR. ADDINGTON: Thank you.

5 THE COURT: Okay. Ms. Kim, would you state your
6 appearance, and Ms. Gough?

7 MS. KIM: Good morning, Your Honor. Jane Kim, Keller
8 Benvenutti Kim, on behalf of the debtors, the reorganized
9 debtors. And I'm here with my cocounsel, Ms. Gough.

10 MS. GOUGH: Good morning, Your Honor. Gale Gough on
11 behalf of Pacific Gas and Electric Company and PG&E
12 Corporation.

13 THE COURT: Good morning.

14 Ms. Stanfield, are you going to join us here? Good
15 morning.

16 MS. STANFIELD: Good morning, Your Honor. Diane
17 Stanfield of Alston & Byrd appearing for Fulcrum Partners,
18 Credit Partners, LLC.

19 THE COURT: So I assume you got the docket text that I
20 sent about the stipulation.

21 I have a couple of questions. The parties themselves,
22 without any involvement by me, have decided that you want to do
23 this arbitration ahead of time. My question is why. It seems
24 like an unnecessary thing to do, at least as far as PG&E is
25 concerned, if PG&E wins on the merits. Why is that -- and

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1 somebody just convince me why. I mean, I'm not going to
2 disapprove it. I'm just trying to have a big picture of why is
3 it a good thing to waste time on an arbitration that may be not
4 necessary.

5 MS. GOUGH: Your Honor, I --

6 MS. STANFIELD: So Your Honor --

7 MS. GOUGH: May I? this is Gayle Gough. Just to make
8 clear, PG&E does not want to do the arbitration at the same
9 time. We believe it should be a phased proceeding with the
10 evidentiary hearing followed by the arbitration. We proposed
11 an edit to the status conference statements submitted by
12 Fulcrum. And I hope Your Honor may have received that.

13 THE COURT: No, I didn't. I only got what I looked at
14 from -- that prompted the docket text. I mean, I looked at the
15 docket yesterday, and I didn't see something new. Maybe I
16 missed it. When did --

17 MS. KIM: Your Honor, there was a -- the reorganized
18 debtors filed this -- this is Jane Kim.

19 The reorganized debtors filed the status conference
20 statement on Friday after we received your docket text order at
21 docket number 11546 which explained that we hadn't agreed to
22 the stipulation that had been attached to Fulcrum's status
23 report that had been filed earlier that day. And one of the
24 reasons was because we didn't believe that it was appropriate
25 to have the arbitration proceed simultaneously with the

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litigation on the objection. And so our proposal, which was
reflected in the revised stipulation, was to have the
arbitration proceed after the evidentiary hearing on the claim
objection.

THE COURT: Well, where is the revised stipulation?

MS. KIM: It was attached as Exhibits A and B to the
status conference statement at docket number 11546. Exhibit A
was a clean, and Exhibit B was a redline against Fulcrum's
version.

THE COURT: No. I think what's happened recently,
there have been a lot of activity on the docket, some stuff,
just kind of miscellaneous routine stuff. And sometimes things
that are much more significant and -- you're right. I do see
the status conference statement that you referred to. But it's
just one of those things where, see, I had just filed the
docket text probably minutes earlier or something, I'm not sure
exactly the timing. And so -- and then Mr. Rupp for other
matters was filing other things called status conference
statements. And so I don't have perfect recall on everything.

So the problem is I didn't know of that document until
just now. Now I see it. And again, I'm not going to try to
read a fourteen-page document while you're all watching me.
But --

MS. GOUGH: Your Honor, if I might direct the Court's
attention on page 6 of the status conference, there is a -- two

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1 paragraphs, paragraph 2 and paragraph 3. Paragraph 2 has dates
2 that we proposed. And counsel for Fulcrum and I had the
3 opportunity to speak yesterday. And I believe that we agree on
4 the dates proposed.

5 THE COURT: Okay.

6 MS. GOUGH: A status conference. However, there does
7 remain the dispute that Your Honor pointed out. And that's in
8 paragraph 3 of page 6 of the status conference report filed by
9 PG&E. And in that, the distinction between the two is PG&E
10 requests a phased proceeding with the arbitrator if necessary
11 and guided by the conclusion and order on the evidentiary
12 hearing. The arbitrator would be appointed thirty days after
13 entry of the final order of the Court following the evidentiary
14 hearing to estimate cost.

15 And when counsel for Fulcrum and I spoke, that
16 remained the disagreement that Your Honor first raised.

17 THE COURT: So Ms. Stanfield, what would you propose?

18 MS. STANFIELD: Well, Your Honor, first of all, I will
19 confirm that we did agree to the dates proposed by PG&E. And I
20 think we can probably enter into a stipulation as to that
21 portion.

22 And to everybody's point, the hang-up is that Fulcrum
23 and Tuscan Ridge would like to see these go on a dual track for
24 a couple of very strong reasons and also with, I think,
25 support. First of all, the delay. And I know Your Honor hears

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1 this all day long. I know that everybody is unhappy with how
2 long it's taking to sort things out. We're no different. We
3 would like to see this done on a more speedy track.

4 And given that the parties did agree to arbitrate this
5 and really if everything had gone according to that agreement,
6 this would have been arbitrated two and a half years ago. I
7 think that's entitled to some deference that they intended a
8 prompt response or result.

9 The other thing on a more practical level, Your Honor,
10 is that we did have a long day of mediation that was not
11 successful. We have had a number of conversations before and
12 after that that have been unsuccessful. And I think a lot of
13 the problem is that we do not have bookends. We do not have
14 any kind of frame for those settlement conversations. And if
15 we don't have an ability to liquidate that number, which really
16 is a discrete issue, I mean, it is a battle of cost estimators
17 in front of an arbitrator who has the experience to apply his
18 expertise to those cost estimates. It's a very discrete issue.

19 And if we don't have that done, I don't think there is
20 a tiny chance that we will get this resolved without a full
21 evidentiary hearing going all the way through July 31st,
22 followed by another three to six months of arbitration. So it
23 is a much more efficient way to go about it. There is little,
24 if any, overlap.

25 And candidly, Your Honor, I know counsel and I had

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1 discussions where we both feel very strongly about the merits.
2 No surprise there. But unless the Court can conclude today
3 that there is absolutely no chance of liability, this is a
4 useful exercise. And I don't think there's any way on the
5 papers or otherwise that the Court can find that there is no
6 chance of liability here.

7 So we would just respectfully request that we be
8 allowed to go on our second separate track, get the number
9 liquidated at the same time we're litigating the other issues.
10 We think that was a very reasonable compromise at the original
11 motion. And we appreciate the efforts on both sides to meet
12 and confer. But we, obviously, need some help with this one.

13 MS. KIM: Your Honor --

14 THE COURT: Well, help with the Court is hard to come
15 by when the Court doesn't know about a document that got filed.
16 And but here I would question, Ms. Stanfield, under the draft
17 that you provided on the 5th, the arbitration would happen
18 thirty days from now. And what is the estimated time for the
19 duration of the arbitration, six months?

20 MS. STANFIELD: No, Your Honor. It wouldn't take that
21 long. And I don't recall the specific language from our
22 original proposal, but I don't think we were anticipating that
23 we could actually conclude an arbitration in thirty days but
24 rather that we would choose an arbitrator, be doing it along
25 the same time.

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1 THE COURT: No, that's right. That's what I said.
2 I'm reading the document you filed on the 5th. And it --
3 referring to today, approving the stip, it says within thirty
4 days of approval of the stip, the parties will engage in a
5 neutral arbitrator, et cetera, et cetera.

6 MS. STANFIELD: Right.

7 THE COURT: And with the various experience. And I
8 don't believe it says anything about when the arbitration will
9 occur. I'm just asking you what is your best judgment as to
10 the time it takes before you'll be in a position to arbitrate
11 and what -- the length and duration of the arbitration might
12 be. In other words, imagine it's now January 15th. And the
13 stipulation is effective. The arbitrator -- when is the
14 arbitration likely to happen?

15 MS. STANFIELD: Your Honor, our view is that it could
16 be easily done within sixty days. We have a cost estimate
17 already prepared. PG&E has had that in their hands for quite a
18 long time.

19 As far as I'm aware, they do not have a cost estimate
20 of their own. And I'm sure that will take some time for them
21 to prepare. So they may disagree with that timing. But I
22 would say sixty days to an arbitration hearing. And again,
23 it's really just a battle of those cost estimator experts. And
24 so I think --

25 THE COURT: Well, okay.

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1 MS. STANFIELD: -- (indiscernible).

2 THE COURT: But now if we go with the arbitration
3 phase later, when is the -- what's the revised timeline for the
4 hearing on the motion? Again, you both -- the three of you all
5 are familiar with something that I am not familiar with that's
6 in the docket. When would I be back in business doing what I'm
7 supposed to do?

8 MS. STANFIELD: Now. I don't think there would be any
9 delay at all. They would be running simultaneously.

10 THE COURT: No, no, I -- maybe I'll rephrase the
11 question. The way -- the way I heard Ms. Gough describe it is
12 the arbitration will come after the Court makes a ruling. My
13 question to you then is, well, when would the Court make a
14 ruling if the arbitration is not going concurrently? Sixty
15 days? I mean, when would you expect that I would be in a
16 position to make a ruling on the claim objection?

17 MS. STANFIELD: Well, Your Honor, the dates that we've
18 agreed on would be unchanged. So we stipulated now to a July
19 31st evidentiary hearing. I recognize now you don't have those
20 dates in front of you. But the dates that PG&E proposed and
21 that counsel and I discussed yesterday and agreed to would be
22 an evidentiary hearing on or before July 31st with discovery
23 cutoff dates to --

24 THE COURT: Okay. You don't need -- okay. You don't
25 need to go into --

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1 MS. STANFIELD: Right.

2 THE COURT: Okay. So keep in mind, again, for the --
3 your benefit, you're dealing with an uninformed judge. The
4 document that I read had this matter being decided in May or
5 April. And I had down a question to put to you, well, what
6 happens after that to the arbitration or what happens to the
7 motion. In other words, it's unclear to me if the arbitration
8 is put on the backburner, what happens when the Court makes a
9 ruling on the claim objection. Does the claim objection
10 resolve the question of relief from the plan injunction? And I
11 don't know the answer. What's the answer to that?

12 MS. STANFIELD: I don't think it resolves that issue.
13 And I think -- and counsel for PG&E is probably in a better
14 position to speak to this than I am. But I think that their
15 wishes here are to have liability established in the Bankruptcy
16 Court and damages to be established in the arbitration. And
17 that -- I think the July 31st hearing would deal with
18 liability. It would not result in approval of the claim
19 because it would have to be liquidated after that. So --

20 THE COURT: Okay.

21 MS. STANFIELD: -- (indiscernible) --

22 THE COURT: Okay. But let's suppose -- let's suppose
23 it's either liquidated after that or concurrent with that. Is
24 the motion for relief from stay then moot?

25 MS. STANFIELD: It would be if we come to agreement on

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1 that, yes.

2 THE COURT: Okay. So really it comes down to my
3 figuring it out or perhaps getting a consensus here on whether
4 the -- whether we're on two tracks or one consecutive -- two
5 tracks or one track because --

6 MS. STANFIELD: Right.

7 THE COURT: -- I could say, fine, I got an easy
8 solution for you, we'll have the arbitration earlier, but we'll
9 have the claim objection earlier. But you all -- counsel have
10 agreed to defer a claim objection -- I mean, not to defer it
11 but to pace it out in a certain manner. So it really comes
12 down to whether I have the best judgment as to what to do.

13 You know what? What would happen if I took the matter
14 under advisement, gave it some thought, and then gave -- had a
15 follow-up hearing just to kind of tell you what I think? I
16 just -- I don't feel fully acquainted with it at the moment.
17 But if I say at the minimum -- I mean, it seems to me I could
18 say, sure, the schedule for the claim objection is fine and let
19 me have a little bit of time to think about and perhaps come
20 back to you with some questions, all of you, some questions
21 about whether to defer the arbitration or to move it on a
22 similar track. There may be an in-between.

23 MS. GOUGH: Your Honor, may I respond?

24 THE COURT: Yes.

25 MS. GOUGH: And I don't mean to interject here, but I

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1 would like to raise a couple of issues. So we are looking at
2 this as -- and the question of liability is going to be very
3 important here because it's liability for the restoration of a
4 property and what our responsibilities are with respect to that
5 property. As in any case where folks are advocating for a
6 phased liability first phase, there is a sense that prevailing
7 in the liability phase may avoid the need for the damages
8 phase.

9 Here the arbitration is very narrow. The arbitration
10 provision is to appoint someone with a construction background.
11 It's not --

12 THE COURT: Yes, I remember that.

13 MS. GOUGH: It's not required to be a lawyer. And it
14 is to estimate the cost to restore the license area.

15 The big question that has been the point of contention
16 between the parties is what is the obligation to restore the
17 license area. And looking at the letter agreement, there is
18 the question of proportional reduction of restoration
19 obligations. This has never been about the cost to pick up
20 some gravel. I don't know that that would ever be a big issue.
21 The question is whether or not we have a liability for having
22 to pick up gravel. So to us, it seems that we definitely need
23 the Court's guidance in terms of interpretation of the letter
24 agreement, application of that law to the circumstances in this
25 case.

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1 And then as in any phased litigation, if the -- a
2 party prevails, there's the possibility of no damage phase or a
3 very narrow damage phase or even more likely at that point when
4 we know the liability, we may be able to agree on the cost. So
5 it is not the cost of picking up gravel but whether or not
6 there's an obligation to it.

7 THE COURT: Yeah.

8 MS. STANFIELD: Your Honor --

9 THE COURT: Yes? Yes, of course.

10 MS. STANFIELD: Sorry. I don't think I've ever heard
11 counsel suggest the possibility that there is no dispute about
12 the cost or that that's not the dispute. Maybe what we should
13 be talking about is the stipulation as to the cost estimate and
14 let that play out in the Bankruptcy Court in terms of
15 proportionate reduction.

16 I mean, the big issue here, Your Honor, and I
17 understand PG&E phrases this in terms of excusing their
18 performance, what the letter agreement contemplates is under
19 certain specific conditions which we contend were not met, that
20 PG&E may have a right to a proportionate reduction of the cost
21 to estimate the license area. And so the proportionate
22 reduction of what? If we were to agree on a cost estimate up
23 front, that would obviate the need for the cost estimate
24 arbitration altogether, I think. So maybe we should be
25 focusing on that.

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1 THE COURT: Well, how do --

2 MS. GOUGH: There --

3 THE COURT: But how --

4 MS. GOUGH: There is a response to that, but I'm
5 mindful that the Court is suggesting that the Court may want to
6 come back with questions.

7 THE COURT: Well, my question is how -- what's the
8 best way to go -- to pin down that cost. It's not -- it's
9 something -- a judicial role to do or it is something the
10 parties should just see if they could agree to? I mean, I
11 wouldn't know where to begin. How would I begin to estimate
12 the cost?

13 MS. GOUGH: We're talking about it in a different
14 context, I believe. So what we have is we have a very large
15 property that has an access road. It has areas that were used
16 for staging equipment.

17 THE COURT: Right.

18 MS. GOUGH: Areas that were used for housing, areas
19 that were used and subsequently became water treatment plants.
20 So there is in our -- in PG&E's perspective we need to -- we
21 say that we are not responsible for restoring the area that
22 became a water treatment plant. There's no point in estimating
23 a cost to restore that area. There is no point in estimating a
24 cost for the access road because there is no obligation, we
25 will say. And that requires discovery.

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1 And so another important aspect of the liability phase
2 is the discovery regarding the subsequent use of the license
3 area, the access road, the parking lots, the housing area, the
4 equipment staging area, the water treatment area, all of those
5 areas we say were used by the subsequent tenant to the
6 exclusion of any restoration obligation or excusing the
7 restoration obligation of PG&E.

8 And so then that's the part the Court would determine,
9 that you have an original tenant, and the tenant had a
10 restoration obligation. But there's a subsequent tenant who
11 comes in and fully occupies and -- to the exclusion of the
12 original tenant. And under the letter agreement, is there a
13 proportional reduction which is a proportion of one percent to
14 ninety-nine percent reduction.

15 And there are -- well, I don't know if I can get a
16 YouTube video admissible, but there are lots of stuff on the
17 internet that shows there was this massive use of the property
18 that precluded our restoration. And that's what we want the
19 Court to look at.

20 THE COURT: Okay. I --

21 MR. DREHER: May I address the Court, Your Honor?

22 THE COURT: Just one second.

23 One I learn that it looked like we were just going to
24 go some sort of a status today, I just put on hold my going
25 into the background. I originally read the objection -- I

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1 mean, excuse me, the motions by Fulcrum some time ago. But
2 then when I -- when it kind of matched up with this, I just
3 kind of put this on the backburner which is the way I do
4 things. So all of you who are intimately familiar with this
5 have the advantage over me. I am not at all familiar with
6 this. And so I can -- I just don't feel at all in a position
7 to know what's the right thing to do.

8 Was that Mr. Dreher who wanted to say something?

9 MR. DREHER: May I address the Court, Your Honor?

10 Thank you. Jamie Dreher. I represent Tuscan Ridge Associates
11 who is the landowner, original claimholder, who subsequently
12 transferred the claim for claim purposes to Fulcrum, although
13 in the papers, we filed -- they've been filed jointly as we are
14 jointly prosecuting the claim.

15 So I just -- I appreciate Your Honor's perspective
16 trying to understand the kind of overlay of these two things.
17 And I just wanted to make a couple of comments from my client's
18 perspective.

19 THE COURT: Yes. Mr. Dreher, let me interrupt you for
20 just a second.

21 Ms. Parada, would you please notify the 11 o'clock
22 calendar parties that I'm running late?

23 THE CLERK: Yes, Your Honor.

24 THE COURT: And, I mean, I can't give you an estimate.
25 It'll be ten minutes after we're finished here.

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1 MR. DREHER: Okay. I'll be very brief, Your Honor.

2 THE COURT: Okay.

3 MR. DREHER: And I just want to kind of lay out for
4 the record, I just feel compelled to for my client's
5 perspective, their view on some of these issues.

6 It's all about timing and delay at this point, Your
7 Honor. I think we noticed yesterday that it was about the
8 three-year anniversary of the Camp Fire. And so under the
9 scheduling proposal advanced by PG&E, I think what they are
10 suggesting is there wouldn't be determination of this claim
11 until the end of next year. You're talking thirteen months
12 from now.

13 If Your Honor has some kind of evidentiary hearing in
14 the July timeframe, this exact scope of which I think is not
15 entirely clear, but then provides some kind of direction than
16 later I think is what PG&E is suggesting to a construction cost
17 estimator, maybe some contours, maybe not, I don't know how
18 that's going to sort out. That's going to be another ninety
19 days. And then what happens? Then we're going to have to come
20 back to the Bankruptcy Court either for confirmation of that
21 arbitration award or review or whichever party feels aggrieved
22 may want something to say about it in front of Your Honor.

23 And the reality is the -- I think everybody is kind of
24 familiar with the news, the cost of labor and goods and
25 everything is skyrocketing. The cost of financing and the

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1 caring cost of this property are devastating. It's been three
2 years. Another thirteen months, frankly, Your Honor, I just
3 have to object to PG&E's proposal in that regard from my
4 client's perspective.

5 And I would also say that liability, damages,
6 affirmative claims, defenses are litigated together all the
7 time. And I think logically that's the only way to do this,
8 Your Honor, I think. And I understand that you want to take
9 another review of the papers.

10 But I think the way this should work, Your Honor, is
11 there be a -- the I guess anticipated July final hearing. But
12 before then, the cost estimate has to happen because it
13 actually has to fold into what Your Honor is deciding. It has
14 to be in front of Your Honor in order to make an actual
15 determination on what, for example, portions of that cost,
16 restoration cost, might be allowed or not.

17 Otherwise, frankly, Your Honor, I'm not exactly clear
18 on what would be finally determined in July. There's general
19 talk about PG&E's defenses and the subsequent use and a pro
20 rata reduction. But without the numbers in front of Your
21 Honor, you're looking at another, I think, to my client, three
22 to six-month delay after that. And --

23 THE COURT: What's the best judgment of all of you as
24 to what the trial time would be and whether the -- whether the
25 arbitration is parallel or later? What's the courtroom trial?

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1 Are we talking about a multiday trial, multiweek trial? I
2 mean, what are -- the bench trial, what -- I have no clue. I'm
3 used to doing quick trials.

4 MS. STANFIELD: This one could -- this one could be a
5 few days, Your Honor. I don't think it's multiple weeks, but
6 it certainly could go up a week if PG&E puts on all of the
7 defenses that they're now proposing.

8 THE COURT: Okay. Well, again, it's not that I
9 couldn't do it. And the calendar is such that I don't
10 anticipate that being a problem. But the trial is the impact
11 on what you're saying -- I mean, look, it really comes down to
12 one question, I guess. Do I go with Fulcrum and Tuscan and say
13 this arbitration go on a parallel track or its own track or
14 PG&E and say stretch it all out? And again, it should be an
15 easy thing to talk about.

16 I guess as much as I hate to do this, I don't want to
17 just wing it and guess. So I guess what I'll invite all of you
18 to do is to be patient with me. I'll take this up at the next
19 hearing which is only a couple weeks away. I'll get prepared.
20 And if you can reach an agreement before then, that's fine.
21 But if not, I'll at least have my thoughts together and have a
22 better sense of the big picture.

23 It isn't as though you all haven't made it clear, but
24 what you've made clear is that it's very complicated. And I
25 understand that. So --

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1 MS. STANFIELD: Your Honor, may I just address --

2 THE COURT: Yeah.

3 MS. STANFIELD: -- one point that counsel raised for
4 PG&E?

5 To be clear on what we're asking to have arbitrated,
6 it does not involve anything that ECC, the subsequent tenant,
7 did to the property. This is a cost estimate that was based as
8 of the time that PG&E vacated. So it is not about asking PG&E
9 to restore damage done by somebody else, to restore property
10 that can't be restored. It is about estimating the cost of the
11 damage that PG&E did to the gulf course, had done by the time
12 they vacated the property.

13 And I understand that we may not have agreement on
14 that exact date. I don't know why. It should be easy enough
15 to figure out when they left the property. But it will be in
16 the February, March 2019 timeframe. And ECC, the subsequent
17 tenant, didn't even use the property until the following month.
18 And so that is not actually a complicating factor in the
19 arbitration at all.

20 MS. GOUGH: Your Honor --

21 THE COURT: Well, that is --

22 MS. GOUGH: -- may I respond to --

23 THE COURT: But it is a -- wait a minute. It is a
24 factor on how you allocate the responsibility after the fact
25 though, right?

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1 MS. STANFIELD: That is the position PG&E takes.

2 THE COURT: Okay. I mean, that was --

3 MS. STANFIELD: And that is --

4 THE COURT: That's the point that Ms. Gough made. I
5 understand.

6 Look, I'll apologize for the final time. I'm just not
7 prepared based upon what I'm just explained. I will be
8 equipped and prepared to give you my best judgment on what we
9 should do and do it at the hearing on November 23rd --

10 MS. KIM: Your Honor --

11 THE COURT: -- at 10 o'clock.

12 MS. KIM: Your Honor, it's Jane Kim.

13 I seem to recall that there was a conflict on our side
14 for the November 23rd hearing which is -- was why I think we
15 had initially -- or we had been thinking about if this were to
16 be continued, that it would have to be continued to the first
17 hearing in December.

18 THE COURT: Well, I can make it on a different day.
19 It can be specially set. I mean, there's enough -- there's
20 enough at stake and enough counsel. If someone is not
21 available, I'll be -- I'll tell you what, Ms. Kim. I will let
22 you and Ms. Parada be in touch with a couple of alternative
23 dates.

24 And Ms. Parada, what I'd like you to do when we
25 conclude this hearing is, first of all, I'll talk to you, Ms.

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1 Parada, offline. And then I'll let you be in touch with Ms.
2 Kim who can then circulate it among all counsel for a date for
3 continued hearing. And I'm not pushing this out. It's
4 probably -- and I also realize that Thanksgiving is looming,
5 and we might be able to do it either just before that or just
6 after that. But I'm not going to tell you that I need time to
7 get prepared and then take a long time to get prepared. I'll
8 do it quickly.

9 MS. STANFIELD: We appreciate that, Your Honor.

10 MS. KIM: Thank you, Your Honor.

11 MS. GOUGH: And, Your Honor, may I just say, I
12 understand we don't need any more argument now. But I just
13 want to say that we adamantly disagree with representations
14 that had been made. And we'll save our arguments for next
15 time.

16 THE COURT: Okay. All right. Thank you all for your
17 time. I will talk to you soon. And Ms. Parada will be in
18 touch with you, Ms. Kim.

19 MS. KIM: Yes, Your Honor.

20 MS. GOUGH: Thank you, Your Honor.

21 THE COURT: Have a good weekend, everyone. Goodbye.
22 We'll conclude. And Ms. Parada, I will join by telephone in
23 about ten minutes.

24 THE CLERK: Yes, Your Honor.

25 (Recess at 11:06 p.m.)

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1 THE CLERK: Calling the matter of PG&E Corporation.

2 THE COURT: Good morning. This is Judge Montali. I
3 apologize for the delay. We ran a little late on another
4 matter.

5 Who's appearing for the debtor this morning?

6 MR. RUPP: Good morning, Your Honor. Thomas Rupp of
7 Keller Benvenutti Kim on behalf of the reorganized debtors.
8 Also with me listening in is Mark Habib of Peters Habib McKenna
9 Juhl-Rhodes & Cardoza.

10 THE COURT: All right. Thank you.

11 Someone else want to be heard?

12 MS. MCCOLM: Good morning, Your Honor. Patricia
13 McColm. I'm a claimant.

14 THE COURT: Yes. Yes, Ms. McColm. Good morning.
15 Nice to hear from you.

16 But is there anyone else who wanted to be heard on the
17 call? All right.

18 Ms. McColm, I presume you received my order. And I
19 have allocated twenty minutes for you. Would you like to
20 reserve some of your twenty minutes for rebuttal?

21 MS. MCCOLM: Yes. But, Your Honor, there was some
22 preliminary requests for accommodations. I'm wondering if
23 you've had an opportunity to consider that and for me to know
24 your response.

25 THE COURT: One of the requests was that you be given

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1 a transcript, and that'll be provided, though I don't think
2 there was anything else. Was there something else?

3 MS. MCCOLM: Yes, Your Honor, that I be provided with
4 leave to make my personal recorded notes because I'm incapable
5 of making proper notes by handwritten means from my crippled
6 hands.

7 THE COURT: Oh, I wasn't aware of that. So what would
8 you be doing? You mean you're recording this call?

9 MS. MCCOLM: I would record for my use of personal
10 notes only.

11 THE COURT: Mr. Rupp, is there any objection to that?

12 MR. RUPP: No objection here, Your Honor.

13 THE COURT: All right. That's fine, Ms. McColm.

14 MS. MCCOLM: And also I have hearing loss, so I am
15 not aware of the speech volume. And I don't know how loud I'm
16 talking. And I have a state-provided phone. And sometimes it
17 jumps out loud so I can hear. And I hope that it will not
18 appear to be disrespectful of the proceedings and that it be
19 accommodated.

20 THE COURT: It's fine. It's not a problem. Can you
21 hear me all right?

22 MS. MCCOLM: Yes. I'm having also some comprehension
23 issues with your speech, but I will do my best to understand.

24 THE COURT: My goal this morning is to listen, not to
25 speak. So I'm going to listen. I'm going to give you twenty

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1 minutes. I'm going to tell you you can reserve a portion of
2 it. I'll remind you that I've -- there's a lot of papers that
3 have been filed, and I've read them. And I don't want you to
4 focus on recent events because they're not relevant. If there
5 have been recent events that you're upset about, you can have
6 recourse elsewhere but not here. The issue today is whether
7 your claim should be allowed.

8 So with that, how much of the twenty minutes would you
9 like to reserve?

10 MS. MCCOLM: Whatever is remaining after I finish my
11 beginning.

12 And may I know the status of the objections to the
13 reply and declaration of --

14 THE COURT: I don't know what you're -- everything is
15 taken under submission. And it's my practice to let the party
16 announce how much he or she wishes to reserve. So I'll suggest
17 that you reserve five minutes. That's fairly typical.

18 MS. MCCOLM: Okay.

19 THE COURT: So you have fifteen minutes. And any
20 objections that have been filed are submitted. And I'll deal
21 with it -- this is a status conference. And under our
22 procedures, if your claim is -- or disallowable as a matter of
23 law, I can dispose of it. If it requires evidentiary proof,
24 typically the get set later.

25 So with that in mind, go ahead. And I'll start your

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1 fifteen minutes.

2 MS. MCCOLM: Thank you, Your Honor. I appreciate that
3 explanation.

4 In summary, this claimant respectfully requests that
5 in the interest of party and judicial economy, that the
6 post-petition claims be heard in the California Superior Court
7 with new state law claims of action arising last week which
8 require urgent injunctive relief for repair of hazardous
9 condition caused by PG&E and that the pre-petition claims be
10 granted for good cause in that the reorganized debtors have not
11 presented evidence to rebut the validity of the claims or show
12 there is no liability on the state causes raised by claimant,
13 pre-petition causes which fall outside the scope of either the
14 easement or judgment and, in fact, are in violation thereof as
15 more fully set forth in the points presented here.

16 I agree that -- with the Court that the question was
17 whether post-petition claims should be heard in a court other
18 than the Bankruptcy Court. I agree. And the response reply
19 would tend to argue that there is jurisdiction and, thus, a
20 stay which is exactly why, Your Honor, that claims were not
21 filed in another court, because obviously no one wants to take
22 a chance on running afoul of the automatic stay.

23 There is not jurisdiction accepted but only to obtain
24 permission to proceed outside of bankruptcy without the
25 possible controversy of a stay in the state court. There's

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1 been no waiver of a jury trial or objection to federal court
2 jurisdiction for the post-petition claims.

3 The focal point of the post-petition claims is not as
4 the reorganized debtors' reply alleges as being the, quote,
5 pre-petition dispute around the easement and judgment, which is
6 for the court -- is for the California Court of Appeal to
7 decide but that the PG&E behavior claimed is not consistent
8 with either the easement or judgment. And PG&E did not request
9 a stay in the California Court of Appeal on any issue in that
10 matter.

11 There is no evidentiary showing by the reorganized
12 debtors that contravenes claimant's fact and authority set
13 forth in the claims. The claims show that PG&E is in violation
14 of the easement and judgment. The behaviors of PG&E are
15 outside thereof, constituting liability on the actionable state
16 causes that are complete in and of themselves upon occurrence.
17 Thus, the pre-petition claims are separate and complete state
18 causes upon occurrence and form no basis for resolution with
19 post-petition claims.

20 There is no jurisdiction of post-petition claims under
21 the Bankruptcy Code, Section 28 U.S.C. 1334. Asserted claims
22 do not arise under, arise in, or are related to cases filed
23 under the Code as California law created the causes of action
24 stated have no effect on the bankruptcy estate. And the causes
25 of action would exist without regard to the existence of the

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1 bankruptcy.

2 The post-petition claims warrant proceeding with the
3 new claims that arose last week where similar issues apply such
4 as the breach of oral agreement, resulting in extraordinary
5 damaged land without repair, which requires immediate
6 injunctive relief. The Court could choose to exercise that
7 extensa as to all state court claims.

8 And I would just point out that the facts show that
9 three times the reorganized debtors have placed a PG&E lock on
10 the five-parcen subdivision gate at private road McColm Drive,
11 refusing to provide claimant with a key. Locking me out of my
12 own property does not show good faith exercise of alleged
13 rights but shows malice and oppression towards this stigmatized
14 owner in contravention of an easement judgment where the motus
15 operandi shown is the false premise that, quote, we can do
16 whatever we want, we have an easement.

17 Reorganized debtors' behavior is not consistent with
18 any alleged rights under the easement and judgment. It is
19 wrong. It is appropriate for the post-petition claims to
20 proceed in the California Superior Court.

21 The pre-petition claims, the reorganized debtors fail
22 to meet their burden to overcome the presumption of validity of
23 claims. No evidence is presented in contravention of any fact
24 or declaration filed in support of the claims. Reorganized
25 debtors have not presented evidence to rebut the validity of

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the claims or show there is no liability on the causes stated.

Thus, the objection is not proven and claim is properly

granted.

Notice of need to inspect one tree identified as being on the wrong address being disputed does not give PG&E the right to destroy seventeen trees in response. That is another example of malice and oppression. There were no inspection reports that show any one or more trees was by judgment authorized re, quote, may remove trees and clear away brush within the area described by Exhibit C which may interfere with the operation and use thereof by PG&E. That is document 11228-1, page 5, lines 2.3, violation of judgment that any tree was either within the described easement or that it interfered with the operation and use by PG&E. There was no showing that any one was as indicated.

Violation of judgment also took place re access outside the specified location. PG&E access to its easement described -- and I'm quoting, PG&E access to its easement described in Exhibit C, dot, dot, (indiscernible) space, managed vegetation on the property that is under or adjacent to PG&E electrical transmission lines within the easement described in Exhibit C, page 5, line 6.10, quoted from the judgment.

The easement described in Exhibit C is designated as demarcated by lines identified on the subdivision by parcel map

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1 at page 1213 as, quote, PG&E transmission easement. No
2 evidence denies this fact in the reply. The claims arise
3 pre-petition are state causes and are complete and fall outside
4 the scope of the easement and the judgment itself as shown
5 above. They do not affect bankruptcy state but are entirely
6 under California law.

7 Claimant's claims and related documents are
8 evidentiary on the validity of the claims. There is nothing
9 evidentiary from the reorganized debtors in contravention.
10 Claims based on personal knowledge is evidence. I have so
11 testified based on personal investigation of tree value and
12 depreciation of land value. If need expert testimony, then
13 leave to amend and discovery for documentation in support is
14 requested.

15 In any event, there's been no denial of any specific
16 act which forms the basis of the claim. And no evidentiary
17 fact or authority has been presented in contravention of any
18 actionable point regarding violation of owner rights or claims
19 for damage to real property that occasioned by conduct of PG&E
20 and its agent. Objection re no liability based on alleged
21 judgment, that just does not lie.

22 Facts presented support each cause of action stated in
23 claims, acts, civil and criminal, which are not excused by
24 either an allegation of being an easement holder or by the
25 appealed judgment. The acts and issue fall outside the scope

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of the argued judgment.

The focus on the pre-petition claims such as the protest that was raised regarding one tree notice for inspection and possible removal, questionably noticing as existing on an address not that of claimants, where CalFire chief said there was no tree which posed a risk to powerlines, does not justify the apparent malice and oppression attended to the conduct of PG&E coming in without notice and without inspection reports to justify destruction of seventeen mature trees, the (indiscernible) of timber from those trees, painting numbers on trees both cut and not cut inside and/or outside the scope of the easement, most of which were outside, directed -- did not justify directing trespass to land not designated as easement.

Establishing causes of action at time of incident pre-petition, physical harm and emotional distress watching the discretion of trees that were beautiful and necessary to the enjoyment and value of the property, and irreparably reducing the value of real property from the loss of those trees. And as indicated in my evidence, trees do effect property value. There's no evidence to rebut the claim. All submissions by claimant are under penalty of perjury.

There's no evidentiary basis by reorganized debtors. The judgment easement does not apply to the causes set forth in the claims. There's no inspection report showing need to

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1 destroy even one, let alone seventeen, trees. There's no
2 substantiation of need to paint large numbers on trees both on
3 and off easements, no denial of having so painted, and no
4 denial of not having removed these eyesores.

5 There's no denial of the harassing phone calls in
6 2018, twenty such fact calls and had to be stopped by requests
7 of the sheriff's department calling the PG&E agent to cease and
8 desist. There's no denial of interference with exercise of
9 state, constitutional, or other civil rights. There's no
10 denial of directing the sheriff personnel to trespass and
11 engage in unlawful police action, restricting claimant's
12 movement on her own property. There's no contravention of
13 estimate of damages, re tree loss or depreciation of value of
14 loss. There's no denial of infliction of emotional stress or
15 physical injury. There's no denial of loss of prospective
16 advantage. There's no denial that behaviors were intentional
17 with malice, reckless, wanton, and without competent
18 supervision. No denial that amount claimed is reasonable for
19 the harm inflicted. There's no denial that the organized
20 debtors came to the Court attempting to take advantage of its
21 own wrongs with unclean hands and maybe barred relief.

22 Reorganized debtors have not presented evidence to
23 rebut the validity of the claim or show there is no deniability
24 on the causes stated which fall outside the scope of either the
25 easement or judgment. Thus, the objection was not proven. And

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the claim is properly granted. The pre-petition state law
claims are properly granted or given leave to proceed in the
California Superior Court. And I reserve my remaining time.

THE COURT: That was just about fifteen minutes, Ms.
McColm. I'll reserve six minutes for you.

MS. MCCOLM: Thank you.

THE COURT: Mr. Rupp?

MR. RUPP: Thank you, Your Honor.

For the record, Thomas Rupp with Keller Benvenuti Kim
for the reorganized debtors.

For the threshold matter regarding the pre-petition
and post-petition claims, the claims were filed. Whether they
be pre-petition or post-petition, they're before this Court.
And the reorganized debtors submit that it does not make sense
to have duplicative litigation over them. As to --

THE COURT: Well, you do agree that Ms. McColm did
suggest that perhaps the Court could choose to abstain? So
even though the claims were filed, there is an overlap. I
think your response even mentioned that although some of the
claims cover post-petition, they're related. But abstention
would tie together all the allegations going back to the
petitioner time but also the current dispute which is just a
continuation of the same thing. So wouldn't abstention make
sense in this case?

MR. RUPP: Your Honor, the Court's point is well

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1 taken. If the Court wishes to abstain, we would argue that
2 there's no other litigation pending as to these claims. And
3 they're here now. And we have briefed them. So it's the
4 opportunity here to have this resolved, might be in the best
5 interest of judicial economy.

6 THE COURT: Well, it is true. It is true that the
7 principle of abstention usually starts with the premise that
8 there must be something to abstain from. And the only matter
9 that is evident or existent on the record in a court is between
10 the company and Ms. McColm on appeal which is hardly what we're
11 talking about.

12 But the point is, she -- even in her argument this
13 morning, she asked for and alluded to the need for injunctive
14 relief. So it seems like that it may well be an appropriate
15 thing. But I'll leave it at that for now because there is --
16 it is true. There's nothing from which to abstain. Go ahead.

17 MR. RUPP: Thank you, Your Honor.

18 With respect to the two claims in front of us today,
19 we respectfully argue that it is Ms. McColm who has not met her
20 burden to substantiate these claims. They're pages of texts
21 and argument. However, it is still entirely unclear what
22 exactly the damages were and what exactly the amounts are that
23 Ms. McColm alleges they are to be. We have -- the claims end
24 up with large, round numbers such as 175- or 125,000. But when
25 you look through the claims, we have perhaps 125 dollars for a

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1 lock here or another amount for a gate here or other amounts
2 for trees which is -- which is entirely speculative on Ms.
3 McColm's part. And she has not provided receipts or estimates
4 or any kind of third-party validation of the amounts she
5 asserts.

6 Moreover, if we look at -- turning to the easements
7 and the judgment entered by the state court, here in paragraph
8 3, subsection B, this is docket 11228-1, the right of PG&E and
9 its successors and assigns to at any time enter upon said
10 Exhibit C lands for the purpose of directing, inspecting,
11 inspecting, and repairing said pole line or its appurtenances.
12 And PG&E may remove trees and clear away any brush within the
13 area described by Exhibit C which may interfere with the
14 operation and use thereof by PG&E for said purposes.

15 So as far as access goes, and we feel that we
16 submitted this and we tried to paint as clear of a picture as
17 we could in the Habib declaration, there is Ms. McColm's
18 property. And there is a gate on Deadwood Road 300 feet away.
19 And that is the most direct path for PG&E or its contractors to
20 access the poles in question.

21 And as noted, there -- as the Court can see from the
22 past and the prior litigation, in the state court this didn't
23 come about for no reason. There's a long history of high
24 tempers between Ms. McColm and the company. However, the
25 photos Ms. McColm has submitted in her -- in her filings,

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1 regrettably they're not -- they are not very clear. They are
2 black and white and very smudged. But they do not seem to
3 really provide a strong evidence of any kind of damage. She
4 contests there are ruts on her property. And to the best I can
5 see, there are -- there may be tire tracks on the land, but
6 they do not seem to be ruts.

7 And moreover, in her filing she acknowledges that PG&E
8 made attempts to patch up the -- whatever ruts they may be with
9 hay, but she contested that she had an allergic reaction or a
10 possible allergic reaction, and the hay had to be cleaned up.

11 Regarding the lock, as far as the lock in her
12 declaration, there are photos of certain locks, I would point
13 out to the Court that it appears that there is a chain around
14 the fence and there is a lock with a PG&E mark. And it is
15 locked to another lock which is then locked to the chain. And
16 from what I understand, this is sort of the common practice in
17 rural areas where several parties can access a gate. If you
18 unlock your lock, you can open the chain. But the other party
19 can unlock their lock to open the chain and access the gate.

20 With respect to the trees, it's not at all clear from
21 Ms. McColm's filings whether these trees were actually cut
22 down, whether they were trimmed, how much they were trimmed,
23 and at what time this occurred. It seems from at least the
24 first claim that they were simply marked. And Ms. McColm
25 alleges that some debris was carried away and contests that

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1 this is firewood that was deprived of her. But it's not at all
2 clear how much, what kind of debris it was, and in what quality
3 it was.

4 So all that being said, despite Ms. McColm's
5 opportunity to respond to our claims and respond to our claim
6 objection, we've gotten more arguments about the easement and
7 the judgment which is settled. It's been settled by the state
8 court. It was settled after a long trial. The bottom line
9 here is there is a road. There is a gate onto Ms. McColm's
10 property. It's the simplest way for PG&E and its contractors
11 to access her property and access the poles on her property
12 which, to be fair, is an important public duty on PG&E's part
13 to be able to maintain these electrical poles and its equipment
14 and take special care that there is no vegetation encroaching
15 on the poles or on the wire.

16 And I strongly disagree that any of this was done out
17 of malice or out of bad faith. This is simply what the company
18 needs to do as far as -- as far as this equipment goes and as
19 far as ensuring the safety of the public, including Ms.
20 McColm's property.

21 So with that, I think I can conclude it's just a
22 matter of -- looking at Ms. McColm's claims, it's impossible to
23 tell how these amounts add up to 175,000 or 125,000 or whatever
24 they may be. There are no receipts. There's no estimates.
25 There's nothing that we can gather as far as interpreting what

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1 actually the company did wrong on the property and what the
2 cost would be to renumerate Ms. McColm if it were the case that
3 the company was liable for some damage.

4 From everything that we've heard from her and from the
5 things she has filed, it seems like the company regrettably had
6 to involve the sheriff's department to attend its contractors
7 and its employees when they visit Ms. McColm's property to
8 perform the work there.

9 THE COURT: Okay. We have plenty of time if you want
10 to go more, but you're also free to stop if you wish.

11 MR. RUPP: I think that's all I need to say, Your
12 Honor. We have our briefs. And we tried to describe the issue
13 as easily as possible. But the fact is that the claims --
14 there's no -- there's no backup to them beyond Ms. McColm's own
15 contest and -- contentions. And even that doesn't remotely add
16 up to the amount she's asserting, even if they were taken to be
17 valid.

18 THE COURT: Well, what if I conclude that it adds up
19 to some amount? Then what do I do? I mean, you kind of
20 dismissively said, well, maybe the 125 dollars and maybe
21 something was -- a value of a tree. But, I mean, if there's
22 some amount, then I have a responsibility to pin it down and
23 fix it, right? Do you want me to have a trial? I mean, do we
24 need to go to trial on this or is it one of those things that
25 made it -- I don't know that there's a rule that says a

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1 claimant has to be -- prove a lot in order to recover a little.

2 MR. RUPP: No, Your Honor. We say that for purposes
3 of illustration that it hasn't even been shown that she
4 incurred any amount.

5 MS. MCCOLM: Oh.

6 THE COURT: Okay. Okay.

7 MR. RUPP: It's the company's position that there is
8 no liability on these claims.

9 THE COURT: All right. Thank you, Mr. Rupp.

10 Ms. McColm, you have six minutes.

11 MS. MCCOLM: Your Honor, I respectfully disagree with
12 the approach and the argument of Mr. Rupp.

13 They claimed that there was no liability based on an
14 alleged dispute of the existence of an easement and judgment.
15 That isn't the basis for liability or a defense to liability at
16 all. The causes of action, based on the jury instructions that
17 I've read for each of the causes of action read that are pled
18 and factually pled in the papers are -- show liability to the
19 claimant from PG&E.

20 They have not denied that they destroyed seventeen
21 trees and marked up -- the facts of the claims are not
22 disputed, period. They did not provide any declarations or
23 evidence saying these things didn't happen. They all happened.
24 The destruction all occurred. And quite frankly, Your Honor,
25 because of my medical conditions and inform a proper status,

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1 going out and getting -- especially with the lack of sufficient
2 notice provided, getting expert reports or finding ones that I
3 had from before regarding valuations of trees and so forth was
4 just not possible and to be timely on the claims.

5 But the -- again, I provided personal knowledge of the
6 destruction of the research that mature trees at a minimum --
7 to destroy mature trees, each one is a minimum of a thousand
8 dollars. And if they're larger -- and in this instance at a
9 building site, can be up to 20,000 apiece. And the value of
10 property is diminished by a certain percentage. My testimony
11 is evidence of the value. The law accepts that in this claims
12 process. And I agree with Your Honor that if more is needed,
13 sure, I guess we'd have to go to a trial.

14 To try and say these things didn't exist, they
15 certainly have not denied any of the things that I listed
16 there. And the damage is not at all speculative. The damage
17 that they caused is fact. And then to say, oh, well, gee whiz,
18 we don't know what occurred, of course they know what occurred,
19 Your Honor. They hired the people pursuant to supposedly a
20 report that they never shared with me. They had receipts
21 showing -- or they should have receipts showing how many trees
22 they cut down, all the timber they stole from me. They didn't
23 leave any timber on my property. They took it away.

24 And then he's arguing new matter regarding the road
25 gate which is going to be the subject matter of litigation in

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1 another court. So he's trying to bring up new matter which, on
2 the pre-petition claims, is not relevant because, Your Honor,
3 they were not using the road gate that he's referring to now
4 that's supposedly necessary to use that they've totally
5 destroyed the property on. They were actually using another
6 road that has public road access that they had permission to
7 use. And the photographs show that they were on the adjoining
8 property with the adjoining gate over which they took all the
9 tree parts, the actual trees they cut down. They took them
10 over and through that gate which they had had permission to
11 use. And now they're trying to change positions that, oh,
12 well, that gate was closer to the poles. That would have been
13 more convenient.

14 But because of the malice and oppression, targeting
15 this claimant for trying so hard, standing up for themselves so
16 hard that I was not quite the easy victim they anticipated.
17 And with their attitude of having caused ruts and damage
18 previously that, oh, we don't even have to tell the owner who
19 caused the damage, we have an easement, we can do whatever we
20 want, that motus operandi has to be put a stop to. They cannot
21 just come on to somebody's property, do whatever they want,
22 cause all the destruction they want, and then try and say, oh,
23 well, we can do it because we have an easement or we have a
24 judgment. The judgment and the easement in this case do not
25 apply. All these causes of action deserve a full credit and --

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1 for damages for what they caused.

2 I ended up in the emergency room with a risk of stroke
3 and high blood pressure and effects of my AFib and emotional
4 distress from watching the destruction of seventeen beautiful
5 trees that increased the value of the property. And now that
6 is gone.

7 And they're talking about locks. Your Honor, there
8 was no ability for me to enter the property when they put their
9 own PG&E lock on my subdivision gate. It isn't necessarily
10 just a lockout of the owner showing malice and oppression. It
11 is a lockout of potentially any one of the five lot owners for
12 the subdivision. And their arrogance and we can do what we
13 don't says we don't care about other owners, we don't care
14 about the owner of this property. We will destroy everything.
15 And as a matter of fact, their land person has now made the
16 assessment that because of how PG&E has behaved and where they
17 are and the way that they've conducted themselves, that it
18 is -- it is -- that the Trinity County building department will
19 not give anyone a permit to build on one entire lot, parcel D.
20 That is a huge diminution in value of the property.

21 And we're not -- I believe that the post-petition
22 claims should go to the Superior Court. I think that absentia
23 of the state claims, whether they're just post-petition claims
24 or all the claims, so that if they want everything to all go
25 together, they can. But I believe that more similar in nature

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1 are the claims that do deal with this gate which is new matter,
2 but then is more akin to the most disastrous actions they've
3 taken under this guise of we can do whatever we want. And gee
4 whiz, maybe because of her disability, she can't defend against
5 us the way big fancy lawyers would be. And as long as the case
6 is in bankruptcy, lawyers are very afraid to get involved
7 because of the automatic stay. So --

8 THE COURT: Okay. Ms. McColm, assuming that your time
9 is up. I appreciate your point and your preparation and your
10 argument. And I'm going to take the matter under advisement.
11 And I will issue a ruling in due course. So I thank you for
12 your efforts.

13 Thank you, Mr. Rupp.

14 Anyone else wish to be heard before I conclude the
15 hearing? All right. I'm going to conclude the hearing.

16 Thank you, Ms. Parada. I'm going to sign off at this
17 point. The matter stands submitted.

18 MS. MCCOLM: Thank you, Your Honor.

19 (Whereupon these proceedings were concluded)
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21
22
23
24
25

C E R T I F I C A T I O N

I, Michael Drake, certify that the foregoing transcript is a true and accurate record of the proceedings.



/s/ MICHAEL DRAKE, CER-513, CET-513

eScribers

7227 N. 16th Street, Suite #207

Phoenix, AZ 85020

Date: November 11, 2021

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